

Panaji, 16th February, 2017 (Magha 27, 1938)

SERIES II No. 46

OFFICIAL GAZETTE

GOVERNMENT OF GOA



PUBLISHED BY AUTHORITY

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

Order

No. 8/15/2016-17/D.Aagri(Part)/302

Government is pleased to grant extension of ad hoc promotion to Shri Pramod Joshi, Agriculture Officer of this Directorate for the interim period w.e.f. 28-09-2016 to 17-11-2016.

This is issued with due concurrence of the Goa Public Service Commission vide their letter No. COM/II/11/2(3)/2014/1633 dated 10-01-2017.

By order and in the name of the Governor of Goa.

U. B. Pai Kakode, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 13th February, 2017.

Department of Elections

Goa State Election Commission

Notification

No. 3/46/SEC-2017/(Part-V)/150

Whereas the bye-election of ward No. II of Village Panchayat, Cana-Benaulim (General) in Salcete Taluka in the State of Goa is scheduled to be held on 5th March, 2017.

Now therefore, I, R. K. Srivastava, IAS (Retd.), State Election Commissioner, Goa State, in exercise of the powers conferred upon me under Article 243K of the Constitution of India and Section 237 of the Goa Panchayat Raj Act, 1994 read with Rule 49 of the Goa Panchayat and Zilla Panchayat (Election Procedure) Rules, 1996, do hereby notify that the Counting of Votes in respect of bye-election of ward No. II of Village Panchayat, Cana-Benaulim (General) in Salcete Taluka in the State of Goa is scheduled to be held on 5th March, 2017. Counting will be done on 6th March, 2017 from 8.00 hrs. till the counting is completed as mentioned below:-

Sr. No.	Name of the Taluka	Ward No.	Name of Village Panchayat	Place of counting of votes
1.	Salcete	II	Cana-Benaulim	Room No. 114 in the Chamber of Mamlatdar Office, Margao, Salcete-Goa.

R. K. Srivastava, IAS (Retd.), Goa State Election Commissioner.

Panaji, 13th February, 2017.

Goa Human Rights Commission

—
Proceeding No. 23/2012**Inquiry Report**

The Complainant has approached this Commission alleging that the Police Sub-Inspector Shri Dattaguru Sawant attached to Valpoi Station illegally detained and assaulted him at Valpoi Police Station on 26-06-2012.

2. It is the case of the Complainant that on 26-06-2012 at about 20.00 hrs., the Complainant was coming from Mauxi, Dabem road in his car and when he reached three roads junction he saw a group of people gathered at the junction. The Complainant inquired with the people about the incident and he learnt that a vehicular accident had taken place between Omni Car and a Scooter in which one Mr. Santan Gonsalves who is a friend of the Complainant and a Muslim person were involved. The Complainant requested his friends who had gathered on the spot to settle the matter amicably. Thereafter, the Complainant proceeded towards his residence. The Complainant has further stated that on reaching at his residence, he received a call from the said Mr. Santan Gonsalves calling the Complainant at the Valpoi Police Station for releasing him on bail in case of arrest. Accordingly, the Complainant went to the Police Station to help Mr. Santan Gonsalves.

3. The Complainant has specifically stated that the Police Sub-Inspector, Shri Dattaguru Sawant asked the Complainant to get out of the Police Station. It is further stated by the Complainant that when he was in the varendah of the Police Station, Police Sub-Inspector, Shri Dattaguru Sawant came near the Complainant and slapped over and over on his face and also caught hold of his collar, dragged him and put him inside the Police Lock-up.

4. Taking cognizance of the complaint, this Commission issued notices to 1) the Chief Secretary, Government of Goa, Secretariat, Porvorim-Goa, 2) The Secretary (Home), Government of Goa, Secretariat, Porvorim-Goa, 3) Superintendent of Police (North), Porvorim-Goa and 4) Shri Dattaguru Sawant, PSI, Valpoi Police Station, Valpoi-Goa. In pursuance to the notices, the Respondent No. 4 filed reply denying the allegations made by the Complainant against him. The Learned Advocate Shri G. D. Kirtani appearing on behalf of the Respondents filed a Memo stating therein that the Respondents No. 1, 2 and 3 do not wish to file any reply in view of detailed reply of the Respondent

No. 4. In his reply, the Respondent No. 4 amongst other things has stated that Head Constable bearing batch No. 4063 was instructed to visit the spot for verification and further necessary action. It is further stated that on reaching the spot the said Head Constable noticed that a group of around 50-60 people had gathered on the spot and the Complainant was shouting and/or using foul language against the Police Department. It is also stated that the Complainant was trying to provoke the general public against the Police and that the Complainant was not in proper state of mind and was using abusive language against the Police Department and the Police Officials present at the site. It is further stated that the said Head Constable noticed that the Complainant was smelling of liquor and was intoxicated and was under the influence of alcohol. It is further stated that the Complainant was under the influence of alcohol and this fact was confirmed by the Medical Officer of the Community Health Centre, Valpoi.

5. The Complainant examined himself before this Commission as CW1 and also examined two more witnesses namely, Shri Santan J. Gonsalves (CW2) and Shri Pradeep Chandrakant Narvekar (CW3) in support of his case. The Respondents did not examine any witness in support of their case.

6. We have heard the Complainant and Learned Advocate Shri G. D. Kirtani for the Respondents. We have also gone through the records of this case.

7. The question for our determination is whether the Complainant was illegally detained and was assaulted by Shri Dattaguru Sawant/Respondent No. 4 at the Police Station thereby violating the basic human rights of the Complainant.

8. The Complainant in his Affidavit-in-Evidence has stated in clear terms that Police Sub-Inspector Shri Dattaguru Sawant asked him to get out of the Police Station. He has further stated that when the Complainant was in the varendah of the Police Station, PSI Shri Dattaguru Sawant came near him and slapped over and over on his face, caught hold of his collar dragged him and put him inside the police lock-up. The other two witnesses namely Shri Santan Gonsalves (CW2) and Shri Pradeep Narvekar (CW2) who were present at the place of the incident have corroborated the evidence of the Complainant (CW1) on all the material aspects of the case. The Complainant (CW1) as well as CW2 and CW3 were cross-examined by the Respondents. However, nothing has been brought on record to discard or to disbelieve the evidence of CW1, CW2 and CW3.

We do not find any material infirmity in the evidence of CW1, CW2 and CW3 which to our mind appears to be convincing and trustworthy.

9. The Complainant who argued in person submitted before us that he was arrested without any reason. He contended that his arrest is illegal. He also submitted that the Medical Certificate regarding alcohol produced by the Respondents is a false and manipulated certificate.

10. The Learned Advocate Shri G. D. Kirtani contended that the Complainant was not assaulted by the Respondent No. 4/Shri Dattaguru Sawant. He submitted that the Complainant was examined by the Medical Officer at Community Health Centre, Valpoi but the Complainant did not make any Complaint to the Medical Officer on duty. In fact, the Complainant has admitted in his cross examination that he did not make any complaint about the assault by Shri Dattaguru Sawant/Respondent No. 4. But then, the mere fact that the complainant did not make any complaint before the Medical Officer is not at all sufficient to draw an inference that the Complainant was not assaulted by the Respondent No. 4. It is not the requirement of law that any person brought for medical examination before the Medical Officer in assault cases by the Police, should inform the Medical Officer about such assault, if any. We therefore do not find any merit in this contention of the Respondents.

11. The Learned Advocate Shri G. D. Kirtani next contended that there is no medical evidence to prove that the Complainant was assaulted by the Respondent No. 4. This contention is devoid of any substance. It is pertinent to note that the Complainant has alleged that he was assaulted by slaps only. In such a situation, it would be ridiculous to expect corroboration to the evidence of the Complainant by medical evidence.

12. The Learned Advocate Shri G. D. Kirtani next submitted that the Complainant was under the influence of liquor at the time of the incident. It is his contention that the Medical Officer has certified that the Complainant was under the influence of liquor at the time of examination. We also do not find any force in this contention of the Respondents. At this stage it would be convenient to look into the Medical Certificate issued by the Medical Officer, Community Health Centre, Valpoi. By letter dated 26-06-2012, the Complainant was referred for examination by Valpoi Police. The said letter dated 26-06-2012 is reproduced below for the sake of convenience.

Valpoi Police Station
Dtd. 26-06-2012

To,
The Medical Officer,
CHC Valpoi,
Valpoi Satari,
Goa.

Sub.: Request for medical examination.
Ref.: Arrest u/s 151 Cr. PC on 26-06-2012.

Respected Doctor.

I am sending herewith one person namely Vincent s/o Manuel Fernandes age 45 yrs., r/o H. No. 362, Massordem, Valpoi, Sattari Goa for medical examination since he has been arrested u/s 151 Cr. P. C.

Kindly medically examine the above mentioned person and opine whether he is fit to be placed in police custody.

Thanking You,
Yours faithfully,
Sd/-

Police Inspector
Valpoi P. S. Goa.

The opinion of Medical Officer is reproduced below:

-Patient unfit for custody as BP-180/110mmHg c/o accelerated hypertensive-pt kept under observation and discharged after treatment.

From the opinion given by the Medical Officer, it is abundantly clear that the Medical Officer did not express any opinion that the Complainant was under the influence of alcohol. It is also pertinent to note that the Police also did not ask the Medical Officer to examine the Complainant to ascertain whether the Complainant was under the influence of alcohol.

13. The Respondents have also produced a copy of Medical Certificate which was received by Valpoi Police Station on 30-06-2012. This Medical Certificate is reproduced below:

To whom-so-ever it may Concern.

This is to inform you that Mr. Vincent Fernandes, 45 yrs. r/o of Massordem Sattari was brought to our CHC on 6-06-12 @ 11.10 pm for medical fitness for custody. Mr. Vincent was examined, he was under influence of alcohol. On examination his blood pressure was found to be high i.e. BP=180/10mmHg. He was given Tab Depin 5mg S/L+Tab Alprax 0.5mg stat and was kept for observation overnight.

Morning patient was discharged & put on Anhhypertensive medicine.

Morning BP-140/100mmHg.

Patient was discharged on medicine

Tab Amlodipine 5mg

1/2-0—0 x 10 days

Tab Alprax 0.5mg

Fu after 10 days.

Thank You

Sd/-

MO CHC Valpoi.

The above Medical Certificate is not free from reasonable doubts. First of all it is not known as to under what circumstances the above Medical Certificate was issued by the Medical Officer, particularly when the Medical Officer has earlier issued the Medical Certificate/opinion when the Complainant was taken for medical examination on 26-06-2012. Admittedly, there is nothing on record to indicate that the Valpoi Police had requested the Medical Officer to issue second Medical Certificate/opinion. In this so called second Medical Certificate, it is stated by the Medical Officer in a casual manner that the Complainant was under the influence of alcohol which is conspicuously missing in the first Medical Certificate. It is not known as to on what basis the Medical Officer has stated that the Complainant was under the influence of alcohol. Admittedly, the Medical Officer did not subject the Complainant for blood test to ascertain the contents of alcohol in his blood. The Medical Officer has also not stated that the Complainant was aggressive and was not co-operative. A mere observation that the Complainant was under the influence of alcohol is not sufficient to come to positive conclusion that the Complainant was under the influence of alcohol. It appears to our mind that this so called second Medical Certificate has been introduced by the Respondents as a clear case of afterthought to cover up the illegalities committed by the Shri Dattaguru Sawant/Respondent No. 4.

14. The next and last contention of the Learned Advocate Shri G. D. Kirtani is that the Complainant tried to create law and order situation and hence, the Complainant was arrested to prevent any untoward incident giving rise to cognizable offences. This contention also has no legs to stand. Admittedly, the Police invoked Section 151 of Criminal Procedure Code to place the Complainant under arrest. The Respondent No. 4 in his reply at para-4 has stated that the Complainant was trying to provoke general public peace. In para-5 of the

reply the Respondent No. 4 has stated that in order to avoid any commission of cognizable offence and to avoid any breach of law and other situation, the Complainant was taken into custody u/s 151 of Cr. P. C. The question for determination is whether in the facts and circumstances of this case, the police were justified in arresting the Complainant by taking shelter u/s 151 of Criminal Procedure Code. We are unable to digest the contention that the Police has no option but to invoke the provisions of Section 151 of Cr. P. C. to prevent commission of cognizable offences. The reasons spelt out for arresting the Complainant by invoking Section 151 of Cr. P. C. are against the mandate of law. Admittedly, the incident had taken place at the Police Station. There is nothing on record even to suggest that the Complainant was capable of committing any cognizable offences or was in a position to create law and order problem. It is settled law that if it is possible to prevent commission of cognizable offence by any other method without arresting the proposed offender, any such arrest has to be construed as illegal arrest. It is also settled law that Police cannot arrest any person on the ground that such person is likely to commit breach of peace or disturb public tranquility.

15. Chapter XI of the Criminal Procedure Code deals with Preventive Action by the Police.

Section 149 of Cr. P. C. provides that every Police Officer may interpose for the purpose of preventing and shall to the best of his ability, prevent the commission of any cognizable offence.

Section 150 of Cr. P. C. lays down that every Police Officer receiving information of a design to commit any cognizable offence shall communicate such information to the Police Officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any offence.

Section 151(1) provides that Police Officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant the person so designing if it appears to such officer that commission of the offence cannot be otherwise prevented.

Section 151(2).....

16. It is apparent from the records of this case that the Police have not fulfilled the requirement of Section 149 and 150 of Cr. P. C. There is nothing on record to show that the Police have received any information relating to cognizable offence by

the Complainant. Now even assuming that the Respondent No. 4 had received such information no such information or design to commit any cognizable offence was communicated by the Respondent No. 4 to his superiors. Thus it is apparent that the Valpoi Police have arbitrarily invoked the provisions of Section 151 of Cr. P. C. by misusing their powers. The arrest of the Complainant therefore is not at all justified.

17. On the basis of the records of this case we are satisfied that the Complainant was illegally detained and was assaulted by the Respondent No. 4. The conduct of Respondent No. 4/Shri Dattaguru Sawant is a clear infringement of the Fundamental Right of the Complainant as guaranteed under Article 21 of the Constitution of India and also amounts to violation of his basic human rights.

18. In the case of Joginder Kumar v/s State reported in (1994) 4 Supreme Court Cases 260, the Apex Court considered the dynamics of misuse of police power of arrest and opined as follows:

"No arrest can be made because it is lawful for the Police Officer to do so. The existence of the power of arrest is one thing. The justification for the exercise of it is quite another ... No arrest should be made without a reasonable satisfaction reached after some investigation about the genuineness and bonafides of a complaint and a reasonable belief both as to person's complicity and even so as to the need to effect arrest. Denying a person his liberty is a serious matter."

19. In the case of D.K. Basu v/s State of Bengal reported in AIR 1997 Supreme Court 610, the Apex Court has observed as follows:

"Fundamental rights occupy a place of pride in the Indian Constitution. Article-21 provides "No person shall be deprived of his life or personal liberty except according to procedure established by law" Personal liberty, thus is a sacrosanct and cherished right under the Constitution. The expression "life or personal liberty" has been held to include the right to live with human dignity and thus it would also include within itself a guarantee against torture and assault by the State or its functionaries."

20. Section 18. Steps during and after inquiry.— The Commission may take any of the following

steps during or upon the completion of an inquiry held under this Act, namely:-

(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or Authority-

(i) to make payment of compensation or damages to the Complainant or to the victim or the members of his family as the Commission may consider necessary.

21. The facts of this case reveal that the Complainant had to suffer mental torture as well as physical discomfort on account of high handedness of the Police who have apparently misused their powers by curtailing the liberty of the Complainant without any justification. We are therefore satisfied that this is a fit case to award appropriate monetary compensation to the Complainant by the State Government.

22. In the case of D. K. Basu v/s State of Bengal (Supra), it has been observed as follows:

"it is well accepted proposition in most of the jurisdiction, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by a public servant and the State is vicariously liable for their acts."

In the facts and the circumstances of this case, we make the following recommendation.

(i) The State of Goa through its Chief Secretary shall pay an amount of Rs. 5,000/- (Rupees five thousand only) to the Complainant as compensation within a period of 30 days. It shall be open to the State Government to recover the amount of compensation from the erring Police Officials.

Date: 23-08-2016.

Place: Panaji-Goa.

Sd/-
A. D. Salkar
Chairperson
Goa Human Rights
Commission

Sd/-
J. A. Keny
Member
Goa Human Rights
Commission

No. 1/70/2012/HD(G)/GHRC/3452

Before the Human Rights Commission

at Panaji-Goa

Proceeding No. 23/2012*Sub.-* Inquiry Report in Proceeding No. 23/2012.

Reply on behalf of the Chief Secretary/Home
Secretary State of Goa.
(Respondent No. 1)

May it please your Honour

In view of the directions given by the Hon'ble Commission on 23-8-2016 in the above mentioned matter, I the Joint Secretary (Home), State of Goa would like to place the following before the Hon'ble Commission.

A report was sought from Director General of Police, Panaji. In this regard it is informed by the Superintendent of Police (L & V) that letter vide No. PHQ/PET-CELL/VAL-07/16/1519/2016 dated 27-10-2016 is sent to Shri Vincent Miguel Fernandes @ Vincent Miguel Fernandes Lourdes Fernandes r/o H. No. 362, Valpoi, Sattari Goa to collect the Demand Draft vide No. 958892 of Rs. 5000/- from the O/o S. P. (L. & V), during office hours.

The same may be kindly noted.

Date: 1-11-2016.

Srinet Kothwale,

Place: Porvorim-Goa

Joint Secretary (Home).

Proceeding No. 251/2013**Inquiry Report**

The present complaint has been filed by the Complainant alleging that he was illegally arrested by Porvorim Police Station and thereby violating his basic human rights.

2. The Complainant is RTI Activist. On 01-04-2013 the Complainant filed an application under Right to Information Act before State Public Information Officer, Miss Vasanti Parvatkar who was functioning as Under Secretary (Law) at the relevant time. The said Public Information Officer was avoiding to give information to the Complainant on one or the other pretext. It is the case of the Complainant that in order to cover up her failure to provide information in time and to take revenge on the Complainant who had complained to the Chief Secretary against her (Miss Vasanti Parvatkar), she filed a false complaint to the Police. The Complainant has further stated that in pursuance to the said complaint filed by Miss Vasanti Parvatkar notice was issued to the

Complainant on 26-10-2013 by invoking provisions of Section 41(A) of Criminal Procedure Code by Police Inspector Shri Shivram Vaigankar requiring him to remain present at Porvorim Police Station on 28-10-2013 in respect of crime registered under No. 150/2013 for offences u/s 509, 323, 586 and 380 of IPC. The said notice was forcibly handed over to the wife of the Complainant on 27-10-2013 at 16.25 hrs., when the Complainant was out of station at New Delhi. On 28-10-2013 at about 11.00 a.m., the wife of the Complainant approached Police Inspector Shri Shivram Vaigankar and inwarded a letter stating that the Complainant was out of station and would present himself before the Police on 30-10-2013. Accordingly, on 30-10-2013, the Complainant appeared before the Porvorim Police and presented himself before the Police Inspector Shri Shivram Vaigankar and also inwarded a letter dated 30-10-2013 which was received by Police Inspector himself and was signed and endorsed by the Police Inspector. It is further stated that on 30-10-2013, the Complainant was not interrogated and as such the Complainant returned home for lunch. It is further stated that around 4.30 p.m. a Police Team was sent to the house of the Complainant by the Police Inspector of Porvorim Police Station and the Complainant was arrested without any warrant or order from the Magistrate which was mandatory as per Section 41A of Cr. PC.

3. Taking cognizance of the complaint filed by the Complainant, this Commission issued notices to Shri Vilesh Durbhatkar, Police Sub-Inspector, Porvorim Police Station, Porvorim-Goa, 2) Shri Shivram Vaigankar, Police Inspector, Porvorim Police Station, Porvorim-Goa 3) Smt. Priyanka Kashyap, Superintendent of Police (North), Porvorim Police Station, Porvorim-Goa 4) Miss Vasanti Parvatkar, Under Secretary (Law), Secretariat, Porvorim-Goa and 5) the Secretary (Law), Secretariat, Porvorim-Goa. In pursuance to the notices, the Respondent No. 1, 2, 4 and 5 have filed separate replies. The Respondent No. 3 has adopted the reply filed by Respondent No. 2. The Complainant has filed his Affidavit-in-Evidence. The Respondent No. 1 and 2 also have filed their Counter Affidavits.

4. The Respondents have denied the allegations made against them by the Complainant. The Respondent No.1 in his reply has stated that on account of non-co-operation of the Complainant, the Incharge of the Police Station directed the Respondent No.1 to proceed to the house of the Complainant and arrest him (Complainant). It is the case of the Respondent No. 2 that one Miss Vasanti Parvatkar filed a complaint on 25-10-2013 alleging that Mr. Sudip Tamankar has committed offences punishable u/s 509, 353, 186 and 380 of IPC.

Accordingly, offences vide Crime No. 150/2013 u/s 509, 353, 186 and 380 of IPC were registered and further investigation was taken up by Respondent No. 1. During the course of investigation, the Respondent No. 1 went to the residence of Sudip Tamankar at Ribandar in search of him but he was not found at his residence. This Respondent has admitted that on 28-10-2013, the wife of the Complainant came at Porvorim Police Station and gave a letter to the Police Inspector, Porvorim Police Station stating that her husband went out of station and was unable to remain present at Porvorim Police Station and that he will remain present on 30-10-2013. This Respondent has denied that the Complainant had visited the Police Station along with his three friends on 30-10-2013. It is stated that by this Respondent that on account of seriousness of the allegations, etc. and on account of non-co-operation of the Complainant, the Respondent No.1 left the Police Station to arrest the Complainant on 30-10-2013 at 3.30 p.m. and on the same day at 5.30 p.m. the Respondent No.1 returned to the Police Station along with the Complainant/Mr. Sudip Tamankar and the Complainant was arrested on the ground that recovery of the stolen Government papers was essential.

5. We have heard the Learned Advocate Shri Yatish Naik for the Complainant and the Learned Advocate Shri V. Sardessai for the Respondents. We have also perused the records of this case. Learned Advocate Shri Yatish Naik invited our attention to Section 41A of Cr.P.C. and contended that the arrest of the Complainant was not justified and the same is illegal. In support of this contention, Shri Yatish Naik has placed a reliance on the decision of the Supreme Court in the case of Dr. Rini Johar & Anr., Petitioners v/s State of M.P. & Ors., Respondents, in Writ Petition (Criminal) No. 30 of 2015. On the contrary, the Learned Advocate Shri V. Sardessai contended that the notice was issued to the Complainant to produce documents. This contention is not borne out of records. The notice u/s 41A does not make any reference to the documents. The said notice indicates that the Complainant was directed to appear at the Police Station in connection with P. S. Crime No.150/2013 u/s 509, 353, 186 and 380 of IPC.

6. Admittedly, the Police Inspector, Porvorim Police Station had issued a notice dated 26-10-2013 u/s 41A of Cr.P.C. directing the Complainant/Shri Sudip Tamankar to remain present at Porvorim Police Station on 28-10-2013 at 11.00 a.m. Records indicate that the wife of the Complainant Smt. Shradha Tamankar by letter dated 28-10-2013 informed the Police Inspector, Porvorim Police

Station that her husband was out of station and also informed the Police that her husband will be available on 30-10-2013. The records further indicate that the Complainant had addressed a letter dated 30-10-2013 to the Police Inspector, Porvorim Police Station stating therein among other things that he will present himself before the Police as and when required. It is the case of the Respondent No. 2/Police Inspector, Porvorim Police Station that the Complainant did not appear before the Police on 30-10-2013 and in view of seriousness of the allegations and on account of non-co-operation, the Complainant was arrested by Respondent No. 1.

7. The crucial question for our determination is whether the Respondent No. 1 and 2 were justified in arresting the Complainant in the facts and the circumstances of this case.

At this stage it would be convenient to refer to Section 41A of Cr.P.C. which reads as follows:

41-A. Notice of appearance before police officer.—(1) *The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.*

(2) *Where such notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.*

(3) *Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officers are of the opinion that he ought to be arrested.*

(4) *Where such person, at any time, fails to comply with the terms of the notice is unwilling to identify himself, a police officer may, subject to such orders as may have been passed by a competent court in this behalf, arrest him for the offence mentioned in the notice.*

8. According to the Respondent Nos.1 and 2 the Complainant did not comply with the terms of notice u/s 41A of Cr.P.C. in as much as the Complainant did not remain present before the Police on 30-10-2013. We are not inclined to accept this contention of the Respondent No. 1 and 2. The records indicate that the Complainant expressed his willingness to appear before the Police as and when required by communication dated

30-10-2013. The Complainant also assured his full co-operation in the matter of investigation. In spite of this position, the Respondent No.1 and 2 arrested the Complainant without following the mandate of the provisions of Section 41A, 41A(3). Admittedly, the Respondent No.1 who has arrested the Complainant has not recorded any reasons for arresting the Complainant as required u/s 41A(3) of Cr.PC. The Respondent No. 1 and 2 have thus committed procedural lapses. They should have been more careful in arresting the Complainant as Section 41A was invoked by the Police. The aforesaid act of Respondent No.1 and 2 amounts to violation of human rights of the Complainant.

In the facts and the circumstances of this case, we make the following recommendations:

- i) The Director General of Police shall censure the conduct of the Respondent No.1 and 2 and shall issue warning in writing to the

Respondent No. 1 and 2 to be careful in future and to follow the provisions of Section 41A of Cr. P.C. meticulously.

- (ii) The Director General of Police, Panaji-Goa shall issue instructions to all the Police Stations in the State of Goa to comply with the provisions of Section 41 and Section 41A of Cr.PC. in letter and spirit.

A copy of this Inquiry Report shall be forwarded to the Director General of Police, Panaji-Goa for strict compliance.

Date: 17-08-2016.

Place: Panaji.

Sd/-

A. D. Salkar

Chairperson

Goa Human Rights

Commission

Sd/-

J. A. Keny

Member

Goa Human Rights

Commission

GHRC
Inward No.: 1370
Date: 25/10/16



Government of Goa
DEPARTMENT OF HOME (GENERAL)
SECRETARIAT
Porvorim – Goa.

Tel.No. (0832) – 2419450

Email: usgen-home.goa@nic.in

No. 19/13/2016- HD(G)/GHRC/3385

Dated: 25.10.2016

To,

The Secretary,
Office of Goa Human Rights Commission,
Panaji-Goa.

Sub:-Inquiry report in Proceeding No.251/2013.

Sir,

I am directed to refer your letter dated 22.08.2016 enclosing therein the inquiry report dated 17/8/2016 addressed to the Chief Secretary, Government of Goa, Secretariat, Porvorim Goa, and to forward herewith a copy of the action taken report into the inquiry report dated 17/8/2016 in respect of Proceeding No. 251/2013 dated 10/10/2016 alongwith the requisite enclosures received from the Superintendent of Police, (L&V), Panaji for information and record.

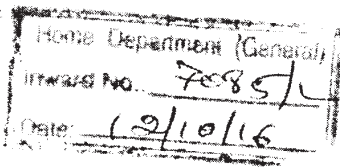
Yours faithfully,

(Rohan J Kaskar)

Under Secretary (Home)

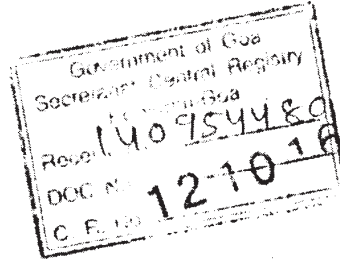
Put up the file

Encl:-As above.



No.PHQ/PET-CELL/GHRC/POR-37/16/ 1428 /2016,
Office of the Director General of Police, PHQ,
Panaji Goa. Date: 10.09.2016.

2/12.09.16
To,
The Under Secretary (Home),
Government of Goa,
Department of Home (General),
Secretariat, Porvorim Goa.



Sub:- Reply into the inquiry report dated 17.08.2016 in respect
of Proceeding No.251/2013.

Ref: No.19/113/2016/HD(G)/GHRC/3099, dated 26.09.2016.

Sir,

With reference to the above, I have to inform that inquiry report dated 17.08.2016 passed by Goa Human Right Commission in respect of Proceeding No.251/2013 was sent to Superintendent of Police, HQ, Panaji Goa for necessary action and report.

It is submitted that the warning note vide No.DE/9474/2016, dated 23.09.2016 and No.DE/9596/2016, dated 28.09.2016 has been issued to PI, Shri Shivram M. Vaigankar of EOC, Panaji and PSI, Shri Vilesh V. Durbhatkar of Escort Cell, Mapusa by Superintendent of Police, (EOC) and Superintendent of Police, (Training) respectively in respect to the inquiry report dated 17.08.2016 passed by Goa Human Right Commission (Copy enclosed).

It is further submitted that a circular has been issued to all Incharge of Police Station and all SP's by Director General of Police, Goa to comply with the provision of section 41 and section 41A of Cr.P.C. Failure to comply with the given instructions, the matter will be viewed seriously. (Copy enclosed).

This is issued with approval of DGP Goa.

Yours faithfully,

(Mohan S. Naik)

Superintendent of Police,
Legal and Vigilance,
Panaji Goa.

Encl: As stated.

4360
26/09/2016No.DE/ 9474 /2016,
Office of the Director General of Police,
Goa, Panaji. Dated: 23/09/2016.

10/10

WARNING NOTE

The Goa Human Rights Commission, Panaji, Goa has conducted the Enquiry into the Complaint dated 11.11.2013 filed by the Complainant, Shri Sudip Tamankar, r/o CT-2, Chandradeep Appt, Rambhuvan Wada, Ribandar alleging that he was illegally arrested by Porvorim Police on 30.10.2013 on the grounds that recovery of the stolen Government papers were essential, thereby violating his basic Human Rights in respect of Porvorim PS Cr. No. 150/2013 for offences u/s 509, 323, 186 and 380 IPC. The Inquiry Report Proceeding No. 251/2013 dated 17.08.2016 is sent to DGP, Goa by Under-Secretary, Goa Human Rights Commission, Panaji vide Proceeding No. 251/2013/627 dated 18.06.2016, for strict compliance.

2. At Para No. 08 of the Inquiry Report Proceedings dated 17.08.2016, the Chairperson and Member of the Goa Human Rights Commission have made the following observations against the Respondents No. 1. Shri Vilesh V. Durbhatkar, the then Police Sub Inspector, Porvorim PS and No. 2. Shri Shivram M. Vaigankar, the then Police Inspector of Porvorim PS, which is reproduced below:-

"According to the Respondent No. 1 and 2 the Complainant did not comply with the terms of notice u/s 41A of Cr.P.C. in as much as the Complainant did not remain present before the Police on 30.10.2013. We are not inclined to accept this contention of the Respondent No. 1 and 2. The records indicate that the Complainant expressed his willingness to appear before the Police as and when required by communication dated 30.10.2013. The Complainant also assured his full cooperation in the matter of investigation. In spite of this position, the Respondent No.1 and 2 arrested the Complainant without following the mandate of the provisions of Section 41A, 41A(3). Admittedly, the Respondent No.1 who has arrested the Complainant has not recorded any reasons for arresting the Complainant as required u/s 41A(3) of Cr.P.C. The Respondent No. 1 and 2 have thus committed procedural lapses. They should have been more careful in arresting the Complainant as Section 41A was invoked by the Police. The aforesaid act of Respondent No. 1 and 2 amounts to violation of Human Rights of the Complainant."

3. From the perusal of the above observations, it is evident that the lapses on the part of Shri Shivram M. Vaigankar, the then Police Inspector of Porvorim PS are the procedural lapses. Shri Shivram M. Vaigankar, PI, who was the Officer-In-charge of Porvorim Police Station, should have given proper directions/supervision on the inquiry/investigation conducted by his subordinates. This is most unacceptable in the Police Force. Hence, I hereby **censured the conduct** of the Respondent No. 2, Shri Shivram M. Vaigankar, the then PI of Porvorim PS and presently posted at EOC, Panaji by **Warning in writing to be careful in future and to follow the provisions of section 41A of Cr. PC meticulously.**

Priyanka Kashyap, (IPS)
Superintendent of Police (EOC),
Panaji.

To,
PI, Shivram M. Vaigankar of EOC, Panaji.
Through DySP, EOC, Panaji. – in duplicate for service & return as usual.

Copy to: - Superintendent of Police (L&V), Panaji.

No.DE/ 9596 /2016, 
Office of the Director General of Police,
Goa, Panaji. Dated: 28/09/2016.

WARNING NOTE

The Goa Human Rights Commission, Panaji, Goa has conducted the Enquiry into the Complaint dated 11.11.2013 filed by the Complainant, Shri Sudip Tamankar, r/o CT-2, Chandradeep Appt, Rambhuvan Wada, Ribandar alleging that he was illegally arrested by Porvorim Police on 30.10.2013 on the grounds that recovery of the stolen Government papers were essential, thereby violating his basic Human Rights in respect of Porvorim PS Cr. No. 150/2013 for offences u/s 509, 323, 186 and 380 IPC. The Inquiry Report Proceeding No. 251/2013 dated 17.08.2016 is sent to DGP, Goa by Under Secretary, Goa Human Rights Commission, Panaji vide Proceeding No. 251/2013/627 dated 18.06.2016, for strict compliance.

2. At Para No. 08 of the Inquiry Report Proceedings dated 17.08.2016, the Chairperson and Member of the Goa Human Rights Commission have made the following observations against the Respondents No. 1. Shri Vilesh V. Durbhatkar, the then Police Sub Inspector, Porvorim PS and No. 2. Shri Shivram M. Vaigankar, the then Police Inspector of Porvorim PS, which is reproduced below:-

"According to the Respondent No. 1 and 2 the Complainant did not comply with the terms of notice u/s 41A of Cr.P.C. in as much as the Complainant did not remain present before the Police on 30.10.2013. We are not inclined to accept this contention of the Respondent No. 1 and 2. The records indicate that the Complainant expressed his willingness to appear before the Police as and when required by communication dated 30.10.2013. The Complainant also assured his full cooperation in the matter of investigation. In spite of this position, the Respondent No.1 and 2 arrested the Complainant without following the mandate of the provisions of Section 41A, 41A(3). Admittedly, the Respondent No.1 who has arrested the Complainant has not recorded any reasons for arresting the Complainant as required u/s 41A(3) of Cr.P.C. The Respondent No. 1 and 2 have thus committed procedural lapses. They should have been more careful in arresting the Complainant as Section 41A was invoked by the Police. The aforesaid act of Respondent No. 1 and 2 amounts to violation of Human Rights of the Complainant."

3. From the perusal of the above observations, it is evident that the lapses on the part of Shri Vilesh V. Durbhatkar, the then Police Sub Inspector, Porvorim P.S. who was the Investigating Officer of the said case should have been more careful in arresting the Complainant as Section 41A was invoked by the Police. This is most unacceptable in the Police Force. Hence, I hereby **censure the conduct** of the Respondent No. 1, Vilesh V. Durbhatkar, the then Police Sub Inspector, of Porvorim PS and presently posted at Escort Cell, Mapusa by **Warning in writing to be careful in future and to follow the provisions of section 41A of Cr. PC meticulously.**


(Rohidas. K. Patre)

Superintendent of Police (Training),
Panaji.

To,
PSI, Vilesh V. Durbhatkar of Escort Cell, Mapusa.
Through PI, Escort Cell, Mapusa. – in duplicate for service & return as usual.

Copy to: - Superintendent of Police (L&V), Panaji.

8/c

No.PHQ/PET-CELL/GHRC/POR-37/16/1427/2016,
Office of the Director General of Police, PHQ,
Panaji Goa. Date: 10.09.2016.
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C I R C U L A R

Goa Human Right Commission in proceeding No.251/2013 has observed that provisions of section 41 and section 41 A of Cr.P.C are not being complied by police personnel of Porvorim PS while effecting the arrest. Further it has been decided to issue instructions to ensure compliance of the provision of section 41 and section 41 A of Cr.P.C. for action and information of the Investigation Officer which are as under.

41. When police may arrest without warrant:-

(1) any police officer may without an order from a Magistrate and without a warrant, arrest any person—

(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-

(i) The Police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) The Police officer is satisfied that such arrest is necessary- (a) to prevent such person from committing any further offence; or (b) for proper investigation of the offence; or (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or (d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or (e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing.

*[Provided that a police officer shall, in all cases where the arrest of a person is not Required under the provisions of this sub-section, record the reasons in writing for not making the arrest.]

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence.

*[sub-clauses (a) and (b) substituted by Code of Criminal Procedure Amendment act, 2008]

**[Proviso to sub-clause (b) inserted by Code of Criminal Procedure Amendment Act, 2010]

*[(2) Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.” }

*[sub-clause (2) substituted by Code of Criminal Procedure Amendment act, 2008]

41-A Notice of appearance before police officer:-

1) The Police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section 1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

2) Where such notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.


3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officers is of the opinion that he ought to be arrested.

4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, a police officer may, subject to such orders as may have been passed by a competent court in his behalf, arrest him for the offence mentioned in the notice.

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All Supervisory Officers should bring this circular to the notice of all Officers & staffs. Failure to comply with the above instructions, the matter will be viewed seriously.

For strict compliance.


 10/10/16
 (Muktesh Chander, IPS)
 Director General of Police,
 Panaji Goa.

To
 All I/C's of Police Station.

Copy to: 1) IGP Goa.
 2) DIGP Goa.
 3) All SP's.

◆◆◆
 Department of Law & Judiciary
 Law (Establishment) Division

**Notification by the High Court of Judicature
 Appellate Side, Bombay**

No. A. 1201/G/2017/451

Shri P. V. Sawaikar, District Judge-1 & Additional Sessions Judge, Mapusa, Panaji District, shall stand retired from Goa State Judicial Service w.e.f. 06-03-2017 (A.O.H.) by superannuation on attaining the age of 60 years.

High Court, Bombay. *Mangesh S. Patil,*
 Dated: 1st February, 2017. Registrar General

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 Department of Official Language and
 Public Grievances

Directorate of Official Language

Order

No. 4/3/DOL/RTI-2012(III)/138

In pursuance of clause 5 of the Right to Information Act, 2005, the following officers are hereby appointed as Public Information Officer and Assistant Public Information Officer for the Directorate of Official Language.

Sr. No.	Designation	Officers designated under Right to Information Act, 2005
1.	Shri Anil H. Sawant, Assistant Director (Konkani/Marathi) Head of office	Public Information Officer.
2.	Smt. Nepha F. e Silveira, Junior Stenographer	Assistant Public Information Officer.
3.	Shri Patrik D'Souza, Upper Division Clerk	Assistant Public Information Officer.
4.	Kum. Sneha S. Sabnis, Junior Translator Konkani	Assistant Public Information Officer.
5.	Shri Parag D. Parsekar, Junior Translator Marathi	Assistant Public Information Officer.

The Public Information Officer shall be responsible for the preparation and publication of the manuals and updating the manuals from time to time as per the said Act.

The Assistant Public Information Officer shall ensure that the applications received by him/her for information under the Right to Information Act, 2005 are submitted on top priority to the Public Information Officer so as to furnish the information to the applicant within the provisions of the Act.

The Director of Official Language will be the First Appellate Authority in pursuance of Clause 19 (1) of the Right to Information Act, 2005.

This supersedes the earlier Order No. 4/3/DOL/RTI-2012(III)/352 dated 12-07-2016 published in Official Gazette Series II No. 16 dated 21-07-2016.

Dr. *Prakash Vazrikar*, Director & ex officio Joint Secretary (Official Language).

Panaji, 13th February, 2017.

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Department of Personnel

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Order

No. 6/9/2009-PER (Part IV)A/277

Read: Notification No. 3/1/2012-PER dated 16-08-2016 published in Official Gazette No. 20 Series I dated 18-08-2016.

The salary adjustments of the following senior scale officers posted below at column No. 3 shall be adjusted against Leave & Training Reserve notified vide preamble (1):

S/N	Name of the officer	Posted as
1	2	3
1.	Shri Menino D'Souza	Commissioner of Excise.
2.	Shri Dipak Bandekar	Commissioner of Commercial Taxes.
3.	Shri Ashok Rane	Director of Industries, Trade & Commerce.
4.	Shri Sanjeev Dessai	Director of Tourism.

Meghana Shetgaonkar, Under Secretary (Personnel-I).

Porvorim, 30th January, 2017.

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Order

No. 7/47/2014-PER/314

Read: Order No. 7/30/2014-PER dated 05-01-2017.

The salaries of the following IAS Officers are to be adjusted against the following posts as mentioned below:-

Sr. No.	Name of the Officer	Salary to be drawn from date of joining till 31-01-2017	Salary from February 2017 onwards
1.	Shri Dharmendra Singh, IAS	Principal Secretary to Government	Chief Secretary.
2.	Dr. Ranbir Singh, IAS	Training Reserve	Principal Secretary to Government.
3.	Smt. Padmini Singla, IAS	State Deputation Reserve	State Deputation Reserve.
4.	Shri Sanjay Goel, IAS	Resident Commissioner	Resident Commissioner.
5.	Shri Rupesh K. Thakur, IAS	Director (Education)	Secretary to Governor.
6.	Shri J. Ashok Kumar, IAS	State Deputation Reserve	State Deputation Reserve.
7.	Smt. Maneka, IAS	Secretary (Finance)	Secretary (Finance).

Meghana V. Shetgaonkar, Under Secretary (Personnel-I).

Porvorim, 8th February, 2017.

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Notification

No. 15/7/2003-PER

In accordance with the Recruitment Rules for the post of Mamlatdar/Joint Mamlatdar/Asstt. Director of Civil Supplies, notified vide Notification No. 1/25/87-PER dated 17-4-1996 published in the Official Gazette, Series I No. 9 dated 31-5-1996 and in accordance with sub-rule (2) of Rule 2 of the Goa Departmental Examination for the Officers in the Cadre of Mamlatdars/Joint Mamlatdars/Asstt. Director of Civil Supplies Rules, 1997, notified under Notification No. 15/50/87-PER-Part I dated 12-12-1997 and

published in the Official Gazette, Series I No. 44 dated 29-1-1998, the schedule for the Departmental Examination shall be as under:

Date of examination	Morning Session 10.00 a.m. to 1.00 p.m.	Evening Session 2.00 p.m to 5.00 p.m.	Venue
27-04-2017	Paper (I)	Paper (VI)	The Goa Public Service Commission, Panaji-Goa.

The syllabus for the said examination shall be in accordance with the Goa Departmental Examination for the Officers in the Cadre of Mamlatdar/Joint Mamlatdar/Asstt. Director of Civil Supplies (First Amendment) Rules, 2011 notified under Notification No. 15/7/2003-PER dated 17-02-2011 and published in the Official Gazette, Series I No. 49 dated 03-03-2011.

The following Officers in the above Cadre shall appear for the Examination in papers mentioned against their names on the above mentioned date, time and venue. They may bring the text books of the Act and Rules prescribed for the examination.

Sr. No.	Name of the Officers	Papers
1.	Shri Mandar Mohan Naik	} I
2.	Shri Ramesh Narayan Gaonkar	
3.	Smt. Sharmila Ulhas Gaunkar	VI

By order and in the name of the Governor of Goa.

Meghana V. Shetgaonkar, Under Secretary (Personnel-I).

Porvorim, 13th February, 2017.

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